

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murata et al. (US 4,737,481).

The instant claims are directed to a catalyst composition comprising a procatalyst comprising magnesium chloride supported titanium chloride and an internal electron donor, an organoaluminum based cocatalyst, and a selectivity control agent of tartrates.

Murata disclosed catalyst composition comprising (i) a procatalyst component prepared by contacting (A) a magnesium hydrocarboxide and (B) a silicon compound such as trichlorosilane to provide a solid product of magnesium chloride, and further contacting the solid product with (C) a titanium halide and (D) an internal electron donor; (ii) a trialkylaluminum; and (iii) an optional external electron donor for olefin polymerization (col. 2, lines 7-16; col. 4, line 48; col. 9, lines 30-39; and Example 1 and application Example 1). It is also noted that Murata discloses component (D) to be selected from various esters such as ethyl benzoate, isobutyl phthalate, and alkyl tartrates (col. 4, line 48), and the external electron donor to be selected from component (D) (col. 9, lines 33-39). It is noted that tartaric acid is commercially available in optically pure isomer forms of (2-R, 3-R) and (2-S, 3S), therefore, one would expected the ester of tartaric acid prepared from those optically pure acid isomers to be in the corresponding (2-R, 3-R) and (2-S, 3S) isomer forms as well.

Thus, it would have been obvious to a skilled artisan at the time the invention was made to employ Murata's teaching to prepare a procatalyst component using ethyl benzoate or isobutyl phthalate as the internal electron donor and alkyl tartrates as the external electron donor since such is within the scope of Murata's disclosure and in the absence of any showing of criticality and unexpected results.

Response to Arguments

3. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

It is the examiner's position that phenyl triethoxy silane is used in Murata's working example (col. 16, lines 13-14) as the external electron donor, however, Murata's external electron donor is not limited to phenyl triethoxy silane because Murata expressly discloses in lines 33-39 of col. 9 that the ingredient D can also be used as the external electron donor. Therefore, it would have been obvious to use any ingredient D such as those alkyl tartrates disclosed in Murata's lines 38-39 of col. 9.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Caixia Lu whose telephone number is (571) 272-1106. The examiner can normally be reached on 9:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Caixia Lu/
Primary Examiner
Art Unit 1796